

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 166

Introduced by Senator Liu

February 1, 2013

An act to add Section 634.3 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 166, as amended, Liu. Juveniles: attorney qualifications.

Existing law provides that any person under 18 years of age who commits a crime is within the jurisdiction of the juvenile court, except as specified. Existing law further provides that a minor has the right to counsel in proceedings to declare the minor a ward of the court. If the minor and his or her parents are indigent, the minor is entitled to appointed counsel.

This bill would require the Judicial Council to establish minimum hours of training and education necessary in order to be appointed as counsel in delinquency proceedings, and would provide that training hours approved by the State Bar shall be counted toward Minimum Continuing Legal Education (MCLE). *The bill would specify that these hours do not increase the minimum number of MCLE hours required of all attorneys by the State Bar.* The bill would require the Judicial Council, by July 1, 2015, to adopt rules of court in this regard, including, among other things, establishing required training areas and encouraging public defender offices and other agencies that represent minors in delinquency cases to provide juvenile delinquency training.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 634.3 is added to the Welfare and Institutions Code, to read:

634.3. (a) The Legislature finds and declares all of the following:

(1) ~~As~~*Because* representing minors in the juvenile justice system has become much more complex, and the potential consequences of juvenile court involvement have become more severe than when the Arnold-Kennick Juvenile Court Law (Chapter 2 (commencing with Section 200) 200)) was enacted, delinquency *defense* attorneys need specialized skills, education, and training to ensure proper representation of minors in juvenile delinquency court.

(2) Competent legal representation by defense attorneys is needed to preserve the integrity of the juvenile justice system, prevent wrongful judgments, reduce unnecessary incarceration, and help ensure that minors receive the care, treatment, and guidance upon which the juvenile justice system is premised.

(3) It is essential that California's juvenile delinquency defense attorneys have the appropriate knowledge and skills needed to meet the demands of this increasingly complex area of legal practice. Advances in brain research demonstrate that children and adolescents do not possess the same cognitive, emotional, decisionmaking, and behavioral capacities as adults. Counsel must ensure that these differences are appropriately recognized in the attorney-client relationship and defense of the case.

(4) It is essential that delinquency *defense* attorneys provide diligent and conscientious advocacy and make rational and informed decisions founded on adequate investigation and preparation.

(5) It is essential that delinquency *defense* attorneys represent the expressed interests of the minor, meet regularly with the minor, and maintain a confidential relationship with the minor. The attorney for the minor should have sufficient contact with the minor to establish and maintain a meaningful and professional attorney-client relationship.

(6) When appropriate, delinquency *defense* attorneys should consult with social workers, mental health experts, and other experts for the minor's defense, and, when appropriate, seek

1 appointment of those experts pursuant to Sections 730 and 952 of
2 the Evidence Code.

3 (b) The Judicial Council shall establish *a minimum number of*
4 hours of training and education necessary in order to be appointed
5 as *defense* counsel in delinquency proceedings. Training hours
6 that the State Bar has approved for Minimum Continuing Legal
7 Education (MCLE) credit shall be counted toward the MCLE hours
8 required of all attorneys by the State Bar. *The minimum number*
9 *of hours of training and education established by the Judicial*
10 *Council pursuant to this section shall not increase the minimum*
11 *number of MCLE hours required of all attorneys by the State Bar.*

12 (c) ~~The~~ By July 1, 2015, the Judicial Council shall adopt rules
13 of court to do all of the following:

14 (1) Establish required training areas that include, but are not
15 limited to, developments in juvenile delinquency law, child and
16 adolescent development, special education, mental health issues,
17 child abuse and neglect, counsel's ethical duties, appellate issues,
18 direct and collateral consequences for a minor of court
19 involvement, and securing effective rehabilitative resources.

20 (2) Encourage public defender offices and agencies that provide
21 representation in proceedings under Sections 601 and 602 to
22 provide training on juvenile delinquency issues that the State Bar
23 has approved for MCLE credit. District attorneys should also be
24 encouraged to pursue education in the relevant areas.

25 (3) Provide that experts whose appointment is requested by
26 delinquency attorneys are agents of the attorneys and require those
27 experts to adhere to the attorney-client privilege under Article 3
28 (commencing with Section 950) of Chapter 4 of Division 8 of the
29 Evidence Code.

30 (4) Provide that attorneys practicing in juvenile delinquency
31 courts shall be solely responsible for compliance with the training
32 and education requirements adopted pursuant to this section.

33 (d) The rules adopted pursuant to this section shall not require
34 a delinquency attorney to do any of the following:

35 (1) Assume the responsibilities of a probation officer, social
36 worker, parent, or guardian.

37 (2) Provide nonlegal services or assistance to the minor.

- 1 (3) Represent the minor in any proceeding outside of the
- 2 delinquency proceedings.

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